

NOV 02 2006

# KRIEG · DEVAULT LLP

## ATTORNEYS AT LAW

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DATE: November 2, 2006

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TO: Examiner Pedro Philogene  
COMPANY: Group Art Unit 3733

FAX NUMBER: 571-273-8300  
PHONE NUMBER:

FROM: Douglas A. Collier

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FAX NUMBER: (317) 636-1507

RE: Response to Office Action for U.S. Patent Application No. 10/645,457 to Aurelian Bruneau, et al.

COMMENTS: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:

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Name of Registered Representative

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PTO/SB/21 (09-04)

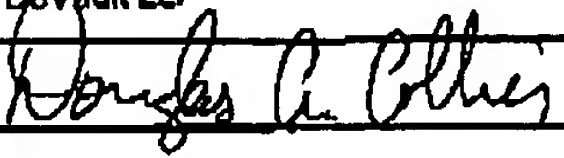
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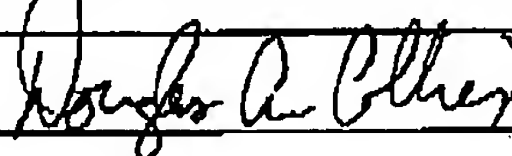
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|                                                                                         |                      |                         |                   |
|-----------------------------------------------------------------------------------------|----------------------|-------------------------|-------------------|
| <b>TRANSMITTAL FORM</b><br><br>(to be used for all correspondence after initial filing) | Application Number   | 10/645,457              |                   |
|                                                                                         | Filing Date          | August 21, 2003         |                   |
|                                                                                         | First Named Inventor | Aurelian Bruneau, et al |                   |
|                                                                                         | Art Unit             | 3733                    |                   |
|                                                                                         | Examiner Name        | Pedro Philogone         |                   |
| Total Number of Pages in This Submission                                                | 12                   | Attorney Docket Number  | MSDI-266/PC771.00 |

| ENCLOSURES (Check all that apply)                                         |                                                                           |                                                                                         |
|---------------------------------------------------------------------------|---------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| <input type="checkbox"/> Fee Transmittal Form                             | <input type="checkbox"/> Drawing(s)                                       | <input type="checkbox"/> After Allowance Communication to TC                            |
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| <input checked="" type="checkbox"/> Amendment/Reply                       | <input type="checkbox"/> Petition                                         | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final                                      | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information                                        |
| <input type="checkbox"/> Affidavits/declaration(s)                        | <input type="checkbox"/> Power of Attorney, Revocation                    | <input type="checkbox"/> Status Letter                                                  |
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| <input type="checkbox"/> Reply to Missing Parts/Incomplete Application    | <input type="checkbox"/> Landscape Table on CD                            |                                                                                         |
| <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 |                                                                           |                                                                                         |
| Remarks                                                                   |                                                                           |                                                                                         |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT |                                                                                     |          |        |
|--------------------------------------------|-------------------------------------------------------------------------------------|----------|--------|
| Firm Name                                  | Krieg DeVault LLP                                                                   |          |        |
| Signature                                  |  |          |        |
| Printed name                               | Douglas A. Collier                                                                  |          |        |
| Date                                       | November 2, 2006                                                                    | Reg. No. | 43,556 |

| CERTIFICATE OF TRANSMISSION/MAILING                                                                                                                                                                                                                                                                           |                                                                                      |      |                  |
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| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: |                                                                                      |      |                  |
| Signature                                                                                                                                                                                                                                                                                                     |  |      |                  |
| Typed or printed name                                                                                                                                                                                                                                                                                         | Douglas A. Collier                                                                   | Date | November 2, 2006 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re patent application of:  
Aurelian Bruneau et al.

Application Serial No. 10/645,457

Filed: August 21, 2003

SYSTEMS AND METHODS FOR  
POSITIONING IMPLANTS RELATIVE  
TO BONE ANCHORS IN SURGICAL  
APPROACHES TO THE SPINEBefore the Examiner:  
Pedro PhilogeneGroup Art Unit:  
3733Attorney Ref. No.:  
MSDI-266/PC771.00

November 2, 2006

**RESPONSE TO NON-FINAL OFFICE ACTION**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

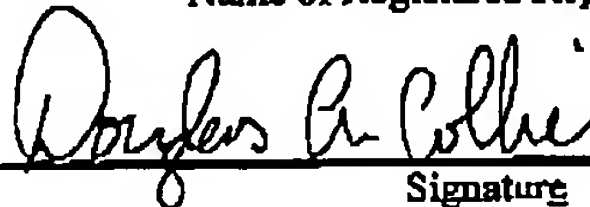
Sir:

In response to the non-final Office Action dated August 2, 2006, please enter and consider the following remarks. Additionally, please provide any extensions of time necessary and charge any additional fees which may be necessary to Deposit Account No. 12-2424, but not to include any payment of issue fees.

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Name of Registered Representative

  
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Response to non-final Office Action  
Application Serial No. 10/645,457  
Page 1 of 11

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**INTRODUCTORY COMMENTS**

In the non-final office action mailed August 2, 2006, claims 1-67 were pending. Claims 21-67 were withdrawn as being directed to a non-elected invention, and claims 1-20 were rejected. In this response, claims 21-67 have been cancelled without prejudice to pursue in a divisional application, claims 1 and 10 have been amended, and new claims 68-79 have been added. Reconsideration of the present application as amended and including claims 1-20 and 68-79 in view of the remarks that follow is respectfully requested.

Response to non-final Office Action  
Application Serial No. 10/645,457  
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